

★ AUG 16 2012 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

ANTONIO RIVERA,

Petitioner,

-against-

ORDER
11-CV-5579(SJF)

UNITED STATES OF AMERICA and
LORETTA E. LYNCH, United States Attorney,

Respondents.
_____X

FEUERSTEIN, J.

On May 26, 2011, petitioner Antonio Rivera ("petitioner") was convicted, upon a jury verdict, of one (1) count of conspiracy to commit sex trafficking by means of force, fraud and coercion in violation of, *inter alia*, 18 U.S.C. §§ 371 and 1591(a) (2008) (count one of the superceding indictment); one (1) count of conspiracy to commit sex trafficking in violation of, *inter alia*, 18 U.S.C. §§ 1594(c) and 1591(a) (2009)¹ (count fourteen of the superceding indictment); four (4) counts of sex trafficking by means of force, fraud and coercion in violation of, *inter alia*, 18 U.S.C. §§ 1591(a) and (b)(1) (2008) (counts two through five of the superceding indictment); two (2) counts of sex trafficking by means of force, fraud and coercion in violation of, *inter alia*, 18 U.S.C. §§ 1591(a) and (b)(1) (2009) (counts fifteen and sixteen of the superceding indictment); one (1) count of conspiracy to commit forced labor in violation of, *inter alia*, 18 U.S.C. §§ 371 and 1589 (2008) (count six of the superceding indictment); one (1) count of conspiracy to commit forced labor in violation of, *inter alia*, 18 U.S.C. §§ 1589(d) and 1594(b) (2009)² (count seventeen of the

¹ 18 U.S.C. § 1591 was amended by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"), Pub. L. 110-457, 122 Stat. 5044, Title II, § 222(b)(5), enacted on December 23, 2008.

² 18 U.S.C. § 1589 was also amended by the TVPRA, Pub. L. 110-457, Title II, § 222(b)(3).

superceding indictment); seven (7) counts of forced labor in violation of, *inter alia*, 18 U.S.C. § 1589 (2008) (counts seven through thirteen of the superceding indictment); four (4) counts of forced labor in violation of, *inter alia*, 18 U.S.C. §1589 (2009) (counts eighteen through twenty-one of the superceding indictment); one (1) count of conspiracy to transport and harbor aliens in violation of, *inter alia*, 8 U.S.C. § 1324(a)(1) (count twenty-two of the superceding indictment); seven (7) counts of transportation of aliens within the United States in violation of, *inter alia*, 8 U.S.C. § 1324(a)(1) (counts twenty-three through twenty-nine of the superceding indictment); and seven (7) counts of alien harboring in violation of, *inter alia*, 8 U.S.C. § 1324(a)(1) (counts thirty through thirty-six of the superceding indictment). Petitioner has not yet been sentenced upon that conviction. On November 9, 2011, petitioner filed a petition pursuant to 28 U.S.C. § 2255 ("Section 2255") challenging his conviction as procured in violation of, *inter alia*, his rights under the Fifth, Sixth and Fourteenth Amendments to the United States Constitution.

By order dated February 1, 2012, petitioner's Section 2255 petition was dismissed without prejudice as premature. By order dated March 13, 2012, petitioner's motion to reopen the 2255 proceeding was denied. Since petitioner did not make a substantial showing of the denial of a constitutional right, a certificate of appealability from the March 13, 2012 order is denied. See 28 U.S.C. § 2253(c); Miller-El v. Cockrell, 537 U.S. 322, 336, 123 S.Ct. 1029, 154 L.Ed.2d 931 (2003).

The Clerk of the Court is directed to serve notice of entry of this Order in accordance with Rule 77(d)(1) of the Federal Rules of Civil Procedure, including mailing a copy of the Order to the *pro se* petitioner at his last known address, see Fed. R. Civ. P. ~~56~~(2)(C).

SO ORDERED.

s/ Sandra J. Feuerstein

SANDRA J. FEUERSTEIN
United States District Judge

Dated: August 16, 2012
Central Islip, New York